IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 4TH JANUARY 2007 / 14TH PAUSHA 1928

MFA.(W.C.)No. 53 of 2004(A)

WCC.163/1995 of W.C.C.,KOZHIKODE
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APPELLANT: APPLICANT

C.ACHU @ PARMESWARAN,S/O.KUNJAN,
CHIRAKKAL,KURULAI (P.O.),
MALAPPURAM DISTRICT.

BY ADV. SRI.V.RAJENDRAN

RESPONDENT: OPPOSITE PARTY

THE DIVISIONAL FOREST OFFICER,
DIVISIONAL FOREST OFFICE,
NILAMBUR SOUTH,
MALAPPURAM DISTRICT.

BY ADV. SUSHEELA R BHAT, SPECIAL GP(FORESTS)

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 04/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.T.SANKARAN, J

M.F.A.(W.C.) No.53 of 2004

Dated this the 4th day of January, 2007

JUDGMENT

The appellant filed an application under Section 22 of the Workmen's Compensation Act claiming compensation from the opposite party, Divisional Forest Officer, Nilambur South. The case of the appellant is that he was employed by the opposite party as a workman on daily wages in the forest area and that he sustained injury by snake-bite on 26.2.1978 in the course of his employment. The appellant herein was examined as AW1 and Exts. A1 to A15 were marked on his side. The appellant stated in evidence that he was treated for a period of more than three months in Nilambur hospital. The opposite party, namely, the respondent herein contended that the appellant was not employed by them and that his employer was a petty contractor.

2. The commissioner dismissed the application holding thus: "From the evidence adduced and documents marked I find that the applicant has failed to establish his claim. The employer- employee relation is not established either through exhibits or through examination of witnesses." The commissioner also noticed, the

opposite party has not produced any document or adduced any evidence in order to prove the contention that the employer of the appellant was a petty contractor. There is no discussion of the oral evidence as well as the documentary evidence in the order impugned. The commissioner has not properly considered the oral and documentary evidence in the case. The reasons for arriving at the conclusion are not discernible from the order impugned. Therefore, I am inclined to set aside the order and to direct the commissioner to dispose of the matter afresh.

3. In the result, the order impugned in the appeal is set aside and the matter is remanded for fresh disposal. The commissioner shall dispose of the matter afresh after considering the pleadings and documentary and oral evidence in the case. The parties may adduce such other evidence as they wish to adduce. The commissioner shall dispose of the matter within a period of three months from the date of production of a copy of the judgment.

MFA is allowed as above.

K.T.SANKARAN,
JUDGE

csl